

## SUBCHAPTER C—FEDERAL LABOR RELATIONS AUTHORITY AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

### PART 2420—PURPOSE AND SCOPE

AUTHORITY: 3 U.S.C. 431; 5 U.S.C. 7134.

#### § 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 and, where applicable, section 431 of title 3 of the United States Code. They prescribe the procedures, basic principles or criteria under which the Federal Labor Relations Authority or the General Counsel of the Federal Labor Relations Authority, as applicable, will:

(a) Determine the appropriateness of units for labor organization representation under 5 U.S.C. 7112;

(b) Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of 5 U.S.C. 7111 relating to the according of exclusive recognition to labor organizations;

(c) Resolve issues relating to the granting of national consultation rights under 5 U.S.C. 7113;

(d) Resolve issues relating to determining compelling need for agency rules and regulations under 5 U.S.C. 7117(b);

(e) Resolve issues relating to the duty to bargain in good faith under 5 U.S.C. 7117(c);

(f) Resolve issues relating to the granting of consultation rights with respect to conditions of employment under 5 U.S.C. 7117(d);

(g) Conduct hearings and resolve complaints of unfair labor practices under 5 U.S.C. 7118;

(h) Resolve exceptions to arbitrators' awards under 5 U.S.C. 7122; and

(i) Take such other actions as are necessary and appropriate effectively

to administer the provisions of chapter 71 of title 5 of the United States Code.

[45 FR 3497, Jan. 17, 1980, as amended at 63 FR 46158, Aug. 31, 1998]

### PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

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AUTHORITY: 3 U.S.C. 431; 5 U.S.C. 7134.

SOURCE: 45 FR 3497, Jan. 17, 1980, unless otherwise noted.

#### § 2421.1 Federal Service Labor-Management Relations Statute.

The term *Federal Service Labor-Management Relations Statute* means chapter 71 of title 5 of the United States Code.

#### § 2421.2 Terms defined in 5 U.S.C. 7103(a); General Counsel; Assistant Secretary.

(a) The terms *person*, *employee*, *agency*, *labor organization*, *dues*, *Authority*, *Panel*, *collective bargaining agreement*, *grievance*, *supervisor*, *management official*, *collective bargaining*, *confidential*

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*employee, conditions of employment, professional employee, exclusive representative, firefighter, and United States*, as used in this subchapter shall have the meanings set forth in 5 U.S.C. 7103(a). The terms *covered employee, employee, employing office, and agency*, when used in connection with the Presidential and Executive Office Accountability Act, 3 U.S.C. 401 *et seq.*, shall have the meaning set out in 3 U.S.C. 401(b), and 431(b) and (d)(2). Employees who are employed in the eight offices listed in 3 U.S.C. 431(d)(2) shall be excluded from coverage if the Authority determines that such exclusion is required because of a conflict of interest, an appearance of a conflict of interest, or the President's or Vice President's constitutional responsibilities, in addition to the exemptions currently set forth in 5 U.S.C. 7103(a).

(b) The term *General Counsel* means the General Counsel of the Authority.

(c) The term *Assistant Secretary* means the Assistant Secretary of Labor for Labor-Management Relations.

[45 FR 3497, Jan. 17, 1980, as amended at 63 FR 46158, Aug. 31, 1998]

### § 2421.3 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.

(a) *National consultation rights* has the meaning as set forth in 5 U.S.C. 7113;

(b) *Consultation rights on Government-wide rules or regulations* has the meaning as set forth in 5 U.S.C. 7117(d);

(c) *Exclusive recognition* has the meaning as set forth in 5 U.S.C. 7111; and

(d) *Unfair labor practices* has the meaning as set forth in 5 U.S.C. 7116.

### § 2421.4 Activity.

*Activity* means any facility, organizational entity, or geographical subdivision or combination thereof, of any agency.

### § 2421.5 Primary national subdivision.

*Primary national subdivision* of an agency means a first-level organizational segment which has functions national in scope that are implemented in field activities.

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### § 2421.6 Regional Director.

*Regional Director* means the Director of a region of the Authority with geographical boundaries as fixed by the Authority.

### § 2421.7 Executive Director.

*Executive Director* means the Executive Director of the Authority.

### § 2421.8 Hearing Officer.

*Hearing Officer* means the individual designated to conduct a hearing involving a question concerning the appropriateness of a unit or such other matters as may be assigned.

### § 2421.9 Administrative Law Judge.

*Administrative Law Judge* means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 5 U.S.C. 7116, and such other matters as may be assigned.

### § 2421.10 Chief Administrative Law Judge.

*Chief Administrative Law Judge* means the Chief Administrative Law Judge of the Authority.

### § 2421.11 Party.

*Party* means:

(a) Any labor organization, employing agency or activity or individual filing a charge, petition, or request;

(b) Any labor organization or agency or activity

(1) Named as

(i) A charged party in a charge,

(ii) A respondent in a complaint, or

(iii) An employing agency or activity or an incumbent labor organization in a petition;

(2) Whose intervention in a proceeding has been permitted or directed by the Authority; or

(3) Who participated as a party

(i) In a matter that was decided by an agency head under 5 U.S.C. 7117, or

(ii) In a matter where the award of an arbitrator was issued; and

(c) The General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

[60 FR 67291, Dec. 29, 1995]

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### § 2421.12 Intervenor.

*Intervenor* means a party in a proceeding whose intervention has been permitted or directed by the Authority, its agents or representatives.

### § 2421.13 Certification.

*Certification* means the determination by the Authority, its agents or representatives, of the results of an election, or the results of a petition to consolidate existing exclusively recognized units.

### § 2421.14 Appropriate unit.

*Appropriate unit* means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), and consistent with the provisions of 5 U.S.C. 7112. In determining an appropriate unit in a proceeding under part 2422 of this Chapter, for the eight offices listed in 3 U.S.C. 431(d)(2), employees shall be excluded from the unit if it is determined that such exclusion is required because of a conflict of interest or appearance of a conflict of interest or because of the President's or Vice President's constitutional responsibilities, in addition to the standards set out in 5 U.S.C. 7112.

[63 FR 46158, Aug. 31, 1998]

### § 2421.15 Secret ballot.

*Secret ballot* means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

### § 2421.16 Showing of interest.

*Showing of interest* means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; allotment of dues forms executed by an employee and the labor organization's authorized official; current dues

records; an existing or recently expired agreement; current exclusive recognition or certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation of units; or other evidence approved by the Authority.

### § 2421.17 Regular and substantially equivalent employment.

*Regular and substantially equivalent employment* means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, kind of work, and seniority rights, if any, of an employee prior to the cessation of employment in an agency because of any unfair labor practice under 5 U.S.C. 7116.

### § 2421.18 Petitioner.

*Petitioner* means the party filing a petition under part 2422 of this subchapter.

[60 FR 67291, Dec. 29, 1995]

### § 2421.19 Eligibility period.

*Eligibility period* means the payroll period during which an employee must be in an employment status with an agency or activity in order to be eligible to vote in a representation election under part 2422 of this subchapter.

[60 FR 67291, Dec. 29, 1995]

### § 2421.20 Election agreement.

*Election agreement* means an agreement under part 2422 of this subchapter signed by all the parties, and approved by the Regional Director, concerning the details and procedures of a representation election in an appropriate unit.

[60 FR 67291, Dec. 29, 1995]

### § 2421.21 Affected by issues raised.

The phrase *affected by issues raised*, as used in part 2422, should be construed broadly to include parties and other

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labor organizations, or agencies or activities that have a connection to employees affected by, or questions presented in, a proceeding.

[60 FR 67291, Dec. 29, 1995]

### § 2421.22 Determinative challenged ballots.

*Determinative challenged ballots* are challenges that are unresolved prior to the tally and sufficient in number after the tally to affect the results of the election.

[60 FR 67291, Dec. 29, 1995]

## PART 2422—REPRESENTATION PROCEEDINGS

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AUTHORITY: 3 U.S.C. 431; 5 U.S.C. 7134.

SOURCE: 60 FR 67291, Dec. 29, 1995, unless otherwise noted.

### § 2422.1 Purposes of a petition.

A petition may be filed for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1)(i) An election to determine if employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) an election to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative.

(3) Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment.* To clarify, and/or amend:

(1) A recognition or certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation.* To consolidate two or more units, with or without an election, in an agency and for which a labor organization is the exclusive representative.

### § 2422.2 Standing to file a petition.

A representation petition may be filed by: an individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an agency or activity; or a combination of the above: *Provided, however,* that

(a) Only a labor organization has standing to file a petition pursuant to section 2422.1(a)(1);

(b) Only an individual has standing to file a petition pursuant to section 2422.1(a)(2); and

(c) Only an agency or a labor organization may file a petition pursuant to section 2422.1(b) or (c).